

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FORD MOTOR COMPANY,
a Delaware corporation,

Case No. 05-72309-DT

Plaintiff,

v.

ALLEN CROSS, an individual, and
FOMOCO OBSOLETE, an entity
of unknown origin,

Defendants.

/

ORDER OF DEFAULT JUDGMENT

At a session of said Court held in the U.S. District Courthouse, City of Detroit, County of Wayne, and State of Michigan, on June 9, 2006

PRESENT: HON. ROBERT H. CLELAND
U.S. District Court Judge

This Court has adopted the Report and Recommendation of Magistrate Judge Donald A. Scheer issued May 5, 2006, in full and entered an Order Granting Ford's Motion for Default Judgment against Defendants Allen Cross and FoMoCo Obsolete ("Defendants") on claims one, two, three, and four of Ford's Complaint. Based upon that Order, and being advised in the premises, IT IS HEREBY ORDERED AND ADJUDGED that Ford Motor Company ("Ford") does have and recovers the relief prayed for in its Complaint as follows:

A. Defendants, their employees, agents, successors, and assigns, and all those in active concert and participation with them, and each of them who receives notice directly or otherwise of this Order, are permanently enjoined from, without permission from Ford:

- (1) imitating, copying, or making unauthorized use of the marks FORD®, FOMOCO®, or FOMOCO STYLIZED® (the “Ford Marks”);
- (2) using any simulation, reproduction, counterfeit, copy, or colorable imitation of the Ford Marks or trade dress in connection with the promotion, advertisement, display, sale, offering for sale, manufacture, production, circulation, or distribution of any service or product;
- (3) using any false designation of origin or false description including, without limitation, any letters or symbols constituting the Ford Marks or trade dress, or performing any act, which can, or is likely to, lead members of the trade or public to believe that any service or product manufactured, distributed, or sold by Defendants is in any manner associated or connected with Ford or the Ford Marks, or is sold, manufactured, licensed, sponsored, approved, or authorized by Ford;
- (4) transferring, consigning, selling, shipping, or otherwise moving any goods, packaging, or other materials in Defendants’ possession, custody, or control bearing a design or mark substantially identical to any or all of the Ford Marks or trade dress;
- (5) engaging in any other activity constituting unfair competition with Ford with respect to the Ford Marks or trade dress, or constituting an infringement of any or all of

the Ford Marks, or of Ford's rights in, or to use or exploit, any or all of the Ford Marks or trade dress; and

(6) instructing, assisting, aiding, or abetting any other person or business entity in engaging in or performing any of the activities referred to in subparagraphs (1) through (5) above.

B. Under Ford's claims for cyberpiracy, Defendants, and all of their agents, servants, employees, and attorneys, and all other persons in active concert or participation with them who receive notice directly or otherwise of this Order, are permanently enjoined from:

(1) transferring to anyone other than to Ford the domain name *fomoco.com*, and any other domain names that use names, words, designations, or other symbols confusingly similar to the Ford Marks; or

(2) registering, maintaining registrations for, using, offering for sale, claiming ownership of, or in any other way using the domain name *fomoco.com*, and any other domain names that use names, words, designations, or other symbols confusingly similar to the Ford Marks.

C. Within 15 days of the entry of this Order of Default Judgment, Defendants shall disclose to the Court and to Ford all other domain name registrations directly or indirectly owned or registered by Defendants in order to permit the Court and Ford to consider whether any such other registration should be transferred to Ford or be subject to other relief in this matter.

D. Defendants shall immediately transfer to Ford the registration for the domain name *fomoco.com*, and any other domain names that use names, words, designations, or other symbols confusingly similar to the Ford Marks.

E. Defendants shall pay \$10,000 (ten thousand dollars) to Ford as statutory damages under 15 U.S.C. § 1117(d) based on Defendants' cyberpiracy.

F. Defendants shall pay \$100,000 (one hundred thousand dollars) to Ford as statutory damages under 15 U.S.C. § 1117(c) based on Defendants' counterfeiting and willful infringement of Ford's FOMOCO STYLIZED® trademark.

G. Defendants shall pay Ford for the attorney's fees and costs it has incurred in the prosecution of this case pursuant to 15 U.S.C. § 1117(a), in an amount of \$28,288.89 (twenty eight thousand, two hundred, and eighty eight dollars and eighty nine cents).

SO ORDERED:

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: June 9, 2006

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, June 9, 2006, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522